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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/764,908	01/26/2004	Fang Lei	02581- P0553A	3365
24126 7590 01/30/2009 ST. ONGE STEWARD JOHNSTON & REENS, LLC 986 BEDFORD STREET STAMFORD, CT 06905-5619				
EXAMINER NGUYEN, THONG Q				
ART UNIT 2872		PAPER NUMBER		
MAIL DATE 01/30/2009		DELIVERY MODE PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/764,908

**Applicant(s)**

LEI, FANG

**Examiner**

Thong Nguyen

**Art Unit**

2872

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-9 and 11-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1,3-9,11,13,14 and 16-21 is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_ is/are rejected.
- 7) ☒ Claim(s) 2,12,15 and 22 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 December 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB08)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_
- Paper No(s)/Mail Date \_\_\_\_

### DETAILED ACTION

1. The present Office action is made in response to the Decision on Appeal issued by the Board of Patent Appeals and Interferences on 11/26/2008.

### *Election/Restrictions*

2. Claim 1 is allowable. The restriction requirement between the species (I-III), as set forth in the Office action mailed on 2/1/2005, has been reconsidered in view of the allowability of claims to the elected invention pursuant to MPEP § 821.04(a). **The restriction requirement is hereby withdrawn as to any claim that requires all the limitations of an allowable claim.** Claims 2, 4, 15 and 18-22, directed to species II and III, are no longer withdrawn from consideration because the claims requires all the limitations of an allowable claim.

In view of the above noted withdrawal of the restriction requirement, applicant is advised that if any claim presented in a continuation or divisional application is anticipated by, or includes all the limitations of, a claim that is allowable in the present application, such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application.

Once a restriction requirement is withdrawn, the provisions of 35 U.S.C. 121 are no longer applicable. See *In re Ziegler*, 443 F.2d 1211, 1215, 170 USPQ 129, 131-32 (CCPA 1971). See also MPEP § 804.01.

As a result, the pending claims are claims 1-9 and 11-22 which claims are examined in this Office action. Note that claim 10 was canceled by applicant in the amendment of 7/18/2005.

***Priority***

3. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

***Drawings***

4. The replacement sheet contained corrected figure 1 was received on 12/5/05. The corrected figure 1 is approved by the examiner. As a result, the present applicant contains six sheets of figures 2-7 as filed on 7/18/05 and one sheet contained figure 1 as filed on 12/5/05.

***Specification***

5. The lengthy specification which was amended by the amendment of 12/5/05 has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

***Claim Objections***

6. Claims 2, 12, 15 and 22 are objected to because of the following informalities. Appropriate correction is required.

- a) In claim 2: a period must be added at the end of the claim.
- b) In claim 12: the term "claim1" appeared on line 2 should be changed to --claim 1--.
- c) In claim 15: the features "the rod lens main elements of the outer rod lens lenses" (line 3) and "the lens elements" (line 3) each lacks a proper antecedent basis. Applicant should note that the basis for each of the mentioned feature is

provided in claim 2, not claim 1. Should the claim 15 be amended to depend upon claim 2 to make the claim 15 comply with the requirement of 35 USC 112, second paragraph?

d) In claim 22: the feature thereof "one of more of the lens main elements" is unclear. Should the mentioned feature be changed to -- one or more of the lens main elements-- or other suitable structure having supported from the specification to make clear the feature claimed?

***Allowable Subject Matter***

7. Claims 1, 3-9, 11, 13-14 and 16-21 are allowed.
8. Claims 2, 12, 15 and 22 would be allowable if rewritten or amended to overcome the objections under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.
9. The following is a statement of reasons for the indication of allowable subject matter:

The device as claimed in the independent claim 1 is allowed by the Decision on Appeals issued by the Board of Patent Appeals and Interferences on 11/26/2008.

***Conclusion***

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thong Nguyen whose telephone number is (571) 272-2316. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stephone B. Allen can be reached on (571) 272-2434. The fax phone

number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Thong Nguyen/

Primary Examiner, Art Unit 2872